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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding the Implementation of the Suspension of Direct Access Pursuant to Assembly Bill 1x and Decision 01-09-060	Rulemaking 02-01-011

PETITION OF PACIFIC GAS AND ELECTRIC COMPANY TO MODIFY DECISION 06-07-030

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November 16, 2006

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Pursuant to Rule 16.4 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, Pacific Gas and Electric Company (PG&E) files this petition for modification of D.06-07-030.

This petition addresses two issues. First, based with discussions with other parties, it has become clear to PG&E that at least some other parties to this proceeding attach very different significance to Table 3C, attached to D.06-70-030, than does PG&E. PG&E files this petition seeking modification of the decision to clarify the purpose of Table 3C with respect to PG&E.

Second, ordering paragraph 9 should be modified, to clarify that it is qualified by ordering paragraph 8. Ordering paragraph 8 states that "Negative [indifference] amounts will not be carried forward to a future year." Ordering paragraph 9 states that "However, any accumulated negative indifference amount shall continue to be tracked, and applied to any future positive indifference amounts that may accrue in later years of the applicability of the DA CRS." Ordering paragraph 9 should be modified to clarify that the tracking of any negative indifference amount for a utility shall occur only until such time as the CRS undercollection for that utility is reduced to zero. San Diego Gas & Electric Company (SDG&E) and Southern California Edison

Company (SCE) have authorized PG&E to indicate that they join in this aspect of this petition for modification of D.06-07-030.

I. DECISION 06-07-030 SHOULD BE MODIFIED TO MAKE CLEAR THAT FOR PG&E, TABLE 3C IS NOT INTENDED TO RETROSPECTIVELY MODIFY ALREADY ADOPTED PRE-JUNE 30, 2006, DWR POWER CHARGE RATES FOR ANY CUSTOMERS, INCLUDING MUNICIPAL DEPARTING LOAD CUSTOMERS

Table 3C attached to D.06-07-030 is entitled "MDL CRS Accrual Rates Recommended by Working Group." Among other things, the table purports to set forth several "MDL Indifference Rate[s]" for PG&E for 2003, 2004, and 2005. From this the table purports to derive "MDL Power Charge Rate[s]" for PG&E for 2003, 2004, and 2005, as well.

PG&E requests that D.06-07-030 be modified to clarify that the numbers presented in Table 3C for PG&E are not intended to retrospectively modify the DWR power charge applicable to non-bundled customers responsible for the costs of DWR power for the period prior to June 30, 2006. PG&E requests this modification because the Power And Water Resources Pooling Authority (PWRPA) has indicated, in a protest it filed on October 24, 2006, to PG&E's supplemental advice letter 2835-E-A, that it believes that D.06-07-030 retrospectively modifies the DWR power charge adopted by the Commission for some departing load customers responsible for the costs of DWR power. PG&E believes PWRPA is mistaken, and asks that the decision be modified to make that clear.

A. In Previous Decisions The Commission Has Already Adopted Pre-June 30, 2006, DWR Power Charge Rates For Non-Bundled Customers Responsible For The Costs Of DWR Power

For PG&E, prior to June 30, 2006, the 2.7 cent per kWh CRS cap was applicable to non-bundled customers, both direct access as well as departing load. The DWR power charge was derived residually, based on the difference between the cap and the sum of the other applicable CRS charges.

The 2.7 cent per kWh cap was adopted for direct access customers in D.02-11-022. (Ordering Paragraph 19, pp. 156) It was continued in D. 03-07-030. (Ordering Paragraph 1, p. 108.) Ordering paragraph 16 (p. 79) of D.03-07-028 applied the same 2.7 cent per kWh cap to municipal departing load: "Pending further order concerning whether the MDL CRS should remain subject to a cap for a longer term, the MDL CRS shall become effective on an interim basis with this order by applying the same cap as is in effect for DA customers." The cap for MDL was not implemented subject to refund, but rather on an interim basis until the Commission decided whether it should be applied "for a longer period."

In its protest to PWRPA focused specifically on "Additional Customer Load" to be served under Schedule E-NWDL. With respect to this departing load, the Commission stated in D.06-05-018 (Ordering Paragraph 3, p. 20) that "Additional Customer Load," which is the load to be served under Schedule E-NWDL, is responsible for the same CRS costs as had already been imposed on other departing load customers in D.03-04-030 (relating to customer generation departing load) and D.03-07-030.

In short, the DWR power charge rate derived residually using the 2.7 cent per kWh CRS cap, is applied to all non-bundled customers who are responsible for the costs of DWR power. All are treated equally.

B. Decision 06-07-030 Does Not Modify The Previously Adopted Pre-June 30, 2006, DWR Power Charge Rates

In its protest PWRPA argued that the 2.7 cent per kWh cap should not apply to "Additional Load Customers" to be billed under Schedule E-NWDL during 2005, that somehow D.06-07-030 was intended to retrospectively modify the 2.7 cent per kWh cap applicable during 2005 to non-bundled customers responsible for the DWR power charge. PWRPA is simply wrong on this score, and D.06-07-030 should be modified to make that clear.

PWRPA claimed that D.06-07-030 adopts a separate "DWR Power Charge accrual rate applicable for PG&E during 2005" that is to now be retrospectively applied to Additional Customer Load, rather than the previously adopted DWR power charge rate derived residually using the 2.7 cent per kWh cap. (PWRPA Protest to Advice Letter 2835-E-A, p. 2. The arguments on pages 5 and 6 are also premised on this claim.) The decision does not do so.

There are several things that D.06-07-030 does do. Specifically, for PG&E it eliminates the 2.7 cent per kWh CRS cap effective June 30, 2006. For PG&E, D.06-07-030 adopts a date when the CRS undercollection is deemed to be reduced to zero: June 30, 2006. This is applicable generally to all non-bundled load responsible for the costs of DWR power; it is not specific just to direct access load.

From June 30, 2006, forward, the CRS charges associated with PG&E's non-bundled customers responsible for the DWR power charge are established on a bottoms-up basis. D.06-07-030 establishes a new charge, the Power Charge Indifference Adjustment (PCIA), to replace the DWR power charge component of PG&E's rates for non-bundled customers going forward from June 30, 2006, and sets the level of that charge for the remainder of 2006. For 2007, it is anticipated that the PCIA charge will be revised as a part of PG&E's 2007 ERRA forecast proceeding, coupled with its end-of-year Annual Electric True-Up (AET) advice filing to set January 1, 2007, PG&E electric rates.

However, D.06-07-030 does not retrospectively adjust the rates applicable to non-bundled customers prior to June 30, 2006. More specifically, it does not modify the historical levels of the DWR power charge that pre-dated the PCIA charge. Not surprisingly, in its protest PWRPA did not point to any language that suggests that D.06-07-030 does adjust such rates retrospectively. Instead, PWRPA pointed to Table 3C of D.06-07-030.

But Table 3C was developed for illustrative purposes, to ensure that the ratemaking that was adopted by the Commission in D.06-07-030 was consistent with the Commission's previously stated goals with regard to elimination of the "CRS undercollection."

That table, as well as Table 3B, presents illustrative CRS accrual rates from which estimates of when the CRS undercollections might reach zero could be derived. The tables, versions of which have been prepared by DWR's consultant at many different times over several years during the course of this proceeding, are intended to demonstrate that the CRS undercollections will be reduced to zero in a timely fashion even if the 2.7 cent per kWh cap is not increased.

For PG&E, at least, those tables had little value by the time D.06-07-030 was adopted, as the decision deems PG&E's CRS undercollection to be zero as of June 30, 2006. (*See, e.g.*, D.06-07-030, pp. 20-23, 29.) They certainly are not intended to retrospectively adjust already-adopted rates applicable to PG&E's non-bundled customers, and there is nothing in D.06-07-030 that any way indicates that that is their purpose.

Indeed, these tables cannot have been intended to change PG&E's rates for 2005 because D.06-07-030 does not adopt "market benchmarks" for PG&E for 2005. (*See*, D.06-07-030, Finding of Fact 13, p. 49.) Without adopted market benchmarks, it is impossible to adopt a specific indifference rate. There is no annual CRS undercollection amount for non-bundled load generally, or for any subset of non-bundled load, such as the customers who will be billed under Schedule E-NWDL. Nothing more than illustrative rates, based on assumed benchmarks, can be developed. Such illustrative rates provide no basis for retrospective adjustments to already adopted rates.

Because PWRPA believes otherwise, and has protested at least one PG&E advice filing

based on that mistaken belief, PG&E requests that D.06-07-030 be modified to clarify that Table 3C is not intended to retrospectively modify the pre-June 30, 2006, DWR power charges applicable to non-bundled customers responsible for the costs of DWR power. Because Table 3C is not mentioned anywhere in the body of the decision, nothing more is required than a footnote on Table 3C stating

> No market benchmarks for PG&E were adopted for 2003 - 2005. For 2006, PG&E does not have any purpose for an "MDL Accrual Rate." Therefore, for PG&E, the calculations for 2003-2006 are illustrative only. The market price benchmarks for 2003 - 2005 were imputed from the adopted cost responsibility surcharge undercollection for PG&E as of December 31, 2005, in Decision 06-07-030. However, as described in Decision 06-07-030, no reported undercollections are applicable to MDL CRS obligations as of December 31, 2005, for PG&E.

PG&E requests that D.06-07-030 be modified by adding this footnote to Table 3C, to clarify that this table is not intended to retrospectively modify already adopted pre-June 30, 2006, DWR power charge rates for MDL, or any other non-bundled customers responsible for the costs of DWR power.

II. DECISION 06-07-030 SHOULD BE MODIFIED TO CLARIFY THAT NEGATIVE INDIFFERENCE AMOUNTS ARE NOT TO BE CARRIED FORWARD TO A FUTURE YEAR AFTER THE CRS UNDERCOLLECTION IS REDUCED TO ZERO

As described in the introduction to this pleading, ordering paragraph 9 of the decision does not explicitly incorporate the limitations set forth in ordering paragraph 8. Ordering paragraph 8 states that "Negative [indifference] amounts will not be carried forward to a future year." Ordering paragraph 9 states that "However, any accumulated negative indifference amount shall continue to be tracked, and applied to any future positive indifference amounts that may accrue in later years of the applicability of the DA CRS."

PG&E, SDG&E, and SCE believe that the intent of the two ordering paragraphs, taken

together, is clear. Negative indifference amounts are to be tracked only until the CRS undercollection is reduced to zero. This is consistent, for example with the joint recommendation of the "DA Agreement Parties" as set forth in the February 1, 2006, Final Report of the Working Group to Calculate CRS Obligations Associated with Municipal Departing Load and Direct Access , which states on page 7

> The DA Agreement Parties agree that the statutory CTC component of the CRS could be larger than the Indifference Rate, and that this will appropriately result in a negative PCIA component of the DA CRS. They also agree that there is some possibility of a negative Indifference Rate. For SCE non-exempt DA customers, given that SCE has a much larger DA CRS undercollection than the other utilities, the DA Agreement Parties agree that if a negative Indifference Rate should occur for SCE, it should be used as a credit against any existing DA CRS undercollections. This concept is consistent with D.05-12-045, which permits a negative statutory CTC to offset a subsequent positive statutory CTC. Because the DA Agreement Parties agree that the CRS undercollection on the PG&E system will be paid off as of June 30, 2006, the DA Agreement Parties agree that the Indifference Rate for PG&E should not go below zero and that no negative balance will be carried forward for PG&E. This principle of a non-negative Indifference Rate for non-exempt DA customers will also apply to SCE after its DA CRS undercollection has been recovered. The principle of a non-negative indifference rate for non-exempt DA customers is applicable to SDG&E and is consistent with the historical undercollection for SDG&E being paid off in 2005.

Therefore, PG&E, SDG&E, and SCE seek modification of ordering paragraph 9 to clarify that the tracking of any negative indifference amount for a utility shall occur only until such time as the CRS undercollection for that utility is reduced to zero, as is indicated in ordering paragraph 8, and that no negative indifference amount should be tracked beyond that point in time. To accomplish this, the phrase "until such time as the CRS undercollection is reduced to

zero" should be added to the end of the last sentence of ordering paragraph 9.[1]

For the same reason, finding of fact 27 should be modified so that the second sentence begins, "However, **until the existing CRS undercollection is eliminated,** any accumulated negative indifference amount shall continue to be tracked . . . ."

Respectfully Submitted,

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By: /s/
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November 16, 2006

[1] If this petition for modification is granted, PG&E intends to eliminate the Negative Indifference Amount Memorandum Account (NIAMA) which was established when the Energy Division approved PG&E's Advice Letter 2871-E, on November 7, 2006.

CERTIFICATE OF SERVICE BY ELECTRONIC MAIL

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Pacific Gas and Electric Company, Law Department B30A, 77 Beale Street, San Francisco, California 94105.

On the 16th day of November, 2006, I served a true copy of:

PETITION OF PACIFIC GAS AND ELECTRIC COMPANY TO MODIFY DECISION 06-07-030

by electronic mail to all parties to R.02-01-011 providing an e-mail address.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on the 16th day of November, 2006.

/s/
MARTIE L. WAY

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA; ELECTRONIC SERVICE LIST

R0201011

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Commissioner Assigned: Geoffrey F. Brown on December 27, 2004;
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Order Instituting Rulemaking Regarding the Implementation of the Suspension of Direct Access Pursuant to Assembly Bill 1X and Decision 01-09-060.	Rulemaking 02-01-011 (Filed January 9, 2002)

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